

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA	:	
	:	CRIMINAL ACTION
v.	:	
	:	NO. 05-440
TYREK MCGETH	:	

SURRICK, J.

JANUARY 7, 2008

MEMORANDUM & ORDER

Presently before the Court are Defendant Tyrek McGeth's Motion to Suppress Physical Evidence Seized on December 13, 2001. (Doc. No. 434.) A suppression hearing regarding this matter was held on August 15, 2007. For the following reasons, Defendant's Motion will be denied.

I. BACKGROUND

On December 13, 2001, Philadelphia Police officers set up surveillance in the 7200 block of Greenway Avenue in Southwest Philadelphia (Suppression Hr'g Tr. 142, Aug. 15, 2007.) The purpose of this operation was to investigate street sales of illegal narcotics. (*Id.*) The surveillance was being conducted by Officer Volz and Officer Ciamachelo. Volz was the observing officer and Ciamachelo was the liaison. (*Id.*) As liaison, Ciamachelo was responsible for relaying what was observed by Officer Volz to a backup team of Philadelphia Police officers. (*Id.*) Ciamachello is a twelve year veteran of the Philadelphia Police Department, with at least two years experience on the narcotics strike force. (*Id.* at 141.) At approximately 8:35 PM, shortly after setting up their observation post, Volz observed Defendant

McGeth standing on the north side of the 7200 Block of Greenway Avenue. (Def. Ex. 1.)

At approximately 8:40 PM Volz witnessed an unknown individual approach Defendant McGeth. (Hr'g Tr. 144; Def. Ex. 1.) The individual handed Defendant what appeared to be United States currency in exchange for several small objects. (Hr'g Tr. 144.) The unknown individual then departed the area. (*Id.*) Volz relayed this information to Ciamachelo. Based upon their experience in the investigation of the sale of illegal drugs, the surveillance team believed that they had observed a sale of narcotics. (*Id.* at 145.) The surveillance team radioed a description of the unknown individual to the backup team, but the backup team was unable to locate and apprehend the individual. (*Id.*; Def. Ex. 1.)

At approximately 8:45 PM, Volz observed a second individual get out of a black Jeep and approach Defendant. (Hr'g Tr. 146; Def. Ex. 1.) This individual was later identified as Glen Wiley. (Hr'g Tr. 146.) Wiley approached Defendant and handed him what appeared to be United States currency. (*Id.*) In exchange, Defendant handed Wiley several small objects from his pants pocket. (*Id.*) Wiley then got back into his vehicle and drove away from the surveillance area. (*Id.*) Volz relayed this information to Ciamachelo who in turn radioed a description of Wiley to the backup team. (*Id.*) When the backup team stopped Wiley he was in possession of a bag containing an "off-white chunky substance" which was determined to be crack cocaine. (*Id.*)

At approximately 9:05 PM, Volz observed a third individual approach Defendant. (*Id.*) This individual was later identified as Alphonso Wyche. (*Id.*) When Wyche approached Defendant he handed Defendant what appeared to be United States currency. (*Id.*) In exchange, the Defendant handed Wyche several small objects from his pants pocket. (*Id.*) Volz relayed

this information to Ciamaichelo. Wyche then started to walk away from the surveillance area. (*Id.*) Ciamaichelo radioed a description of Wyche to the backup team. (*Id.*) Wyche was stopped and found to be in possession of four bags containing an “off-white chunky substance” which was determined to be crack cocaine. (*Id.*)

At approximately 9:10 PM, Defendant left the surveillance area in his vehicle. (*Id.*) The surveillance team radioed the description and direction of Defendant to the backup team. (Def. Ex. 1.) Officer Erick Garnett was a member of the backup team. Officer Garnett and other officers stopped Defendant’s vehicle. Defendant was searched. Ten small packets of crack cocaine were seized from Defendant. Defendant had put the packets of crack in his mouth. (*Id.*) The officers also seized \$251 in United States currency from Defendant. (*Id.*)

Defendant seeks to suppress this evidence as obtained as a result of an illegal search and seizure. The Government responds that the search was conducted incident to a lawful arrest based upon probable cause.

II. LEGAL ANALYSIS

When the officers pulled Defendant over they placed him under arrest. (Hr’g Tr. 118.) A warrantless arrest by a police officer is reasonable under the Fourth Amendment when there is probable cause to believe that Defendant has committed a crime. *Devenpeck v. Alford*, 543 U.S. 146, 152 (2004). A determination as to whether probable cause exists looks at the events leading up to the arrest and then asks whether these facts, when seen from the viewpoint of an objectively reasonable police officer, amount to probable cause to believe that that individual has committed or is committing a crime. *Maryland v. Pringle*, 540 U.S. 366, 371 (2003). “[A]ll that matters is whether the arresting officers possessed knowledge of evidence sufficient to establish probable

cause that [a defendant] was engaged in the commission of a felony at the time of his public warrantless arrest.” *United States v. Abdi*, 463 F.3d 547, 559 (6th Cir. 2006) (citing *Payton v. New York*, 445 U.S. 573, 598 (1980)). Once a person is detained pursuant to a lawful arrest, officers may conduct a search incident to that arrest of the area within the immediate control of the arrestee. *See Chimel v. California*, 395 U.S. 752, 762-63 (1969) (“When an arrest is made . . . it is entirely reasonable for the arresting officer to search for and seize any evidence on the arrestee’s person in order to prevent its concealment or destruction.”); *see also*, *New York v. Belton*, 453 U.S. 454 (1981) (same). Moreover, such searches may be made either for the protection of the arresting officer or prevent an arrestee from “destroying evidence of the crime for which he was being arrested.” *United States v. Schechter*, 717 F.2d 864, 867 (3d Cir.1983) (citing *Chimel*, 395 U.S. at 763).

In this case, the police arrested Defendant after observing him engage in three narcotics transactions. Two of the drug transactions led to arrests of individuals who were in possession of the crack cocaine that they had just purchased from Defendant. These facts alone are sufficient to give rise to a reasonable belief that the Defendant had committed, or was in the process of committing, a felony.

At the time of his arrest, the Defendant was leaving the area where the crimes took place, and was believed by police to be in possession of drugs and currency obtained as a result of the illegal drug sales. A search of Defendant revealed that he was attempting to hide crack cocaine in his mouth. Under all of these circumstances the arrest of Defendant was perfectly proper and the search of Defendant incident to the lawful arrest was also proper. Defendant’s Fourth Amendment rights were not violated.

III. CONCLUSION

For these reasons, we conclude that the Defendant's Motion to Suppress the physical evidence seized from his person on December 13, 2001 is without merit. Accordingly, Defendant's Motion will be denied.

An appropriate Order follows.

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ORDER

AND NOW, this 7th day of January, 2008, upon consideration of Defendant Tyrek McGeth's Motion to Suppress Physical Evidence Seized on December 13, 2001 (Doc. No. 434), and after hearing in open court, it is ORDERED that the Motion is DENIED.

IT IS SO ORDERED.

COURT:

BY THE



R. Barclay Surrick, Judge _____